

Statement of
The Honorable Patrick Leahy

United States Senator
Vermont
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Statement Of Senator Patrick Leahy,
Ranking Member, Senate Judiciary Committee
Hearing On
"The Fairness In Asbestos Injury Resolution Act"
January 11, 2005

I commend Chairman Specter for holding this hearing on asbestos legislation. My message today is a simple one: We must see our efforts through until we have a balanced and effective national trust fund that fairly compensates victims of asbestos-related disease. In order to reach that goal, we must continue to work with the various stakeholders and Senators on both sides of the aisle until we settle the outstanding details on a fair resolution for all concerned.

Back in September 2002 I chaired the first Senate Judiciary Committee hearing on asbestos litigation. Since that time I am pleased that we have made real progress in finding common ground around a national trust fund, despite some fits and starts along the way.

In the last Congress, we painstakingly built two of the four pillars of a successful trust fund: appropriate medical standards to determine who should receive quick compensation, and an efficient, expedited system for processing claims. With the unanimous adoption of the Leahy-Hatch medical criteria amendment, this committee reached consensus on the proper standards for determining legitimate victims. Meanwhile, Senator Specter and Judge Becker, working hand-in-hand with the stakeholders, achieved consensus on the framework for a no-fault administrative system to be housed at the Department of Labor.

We have yet to reach consensus on the other two pillars of a successful trust fund -- fair award values for asbestos victims, and adequate funding to pay for the victims' claims.

If the award values are too low or subject to liens that reduce or exhaust any recovery for victims, the bill will be inherently unfair and unworthy of our support. There are about 600,000 legal cases currently pending in the system, making it critical to have adequate funding at the inception of a national trust fund. Direct contributions from defendants and insurers and borrowing authority will be necessary to accommodate the inevitable, which is thousands of these pending claims coming in on the very first day of the trust fund.

The negotiations between Senator Frist and Senator Daschle in the waning days of the last Congress narrowed the differences on many compensation and funding provisions. Now we need to build on that progress with all the stakeholders to resolve these remaining

critical and connected issues. Our undertaking is challenging and unprecedented. It will not be easy to hammer out the details necessary for enacting a bipartisan bill into law. But the stakes are too high, and too much progress has already been accomplished, for us to leave the field before trying our utmost to complete this difficult task.

Creating a fair national trust fund to compensate asbestos victims is one of the most complex legislative undertakings I have been involved with in my 30 years in the Senate. The interrelated aspects necessary for a fair national trust fund are like a Rubik's Cube, and that is all the more reason why we need a consensus solution, translated into legislation.

For Congress to enact reforms this year, all the stakeholders will have to be willing to work with open minds toward a realistic and reasonable national trust fund. It cannot be a stacked trust fund approach that attempts to shoot the moon for one side or the other. To succeed, it must be a balanced piece of legislation.

My two grandfathers worked as stonecutters in the granite quarries of Vermont. They both suffered from silicosis because of their workplace exposures to stone dust. One of my grandfathers died at the age of 35 because of the disease. Thinking of them, and of the hundreds of thousands of present and future asbestos victims, I want to make every effort to enact a fair and balanced national trust fund, and I commend and encourage all who are working in good faith to help do that.

Acting together is the best way to move a bipartisan bill through the legislative process and into law. There remain a number of important issues on which we need to find common ground, and by working together we stand the best chance of success.

I thank Chairman Specter, Judge Becker and the representatives from organized labor, the trial bar, and industry who have worked so hard to try to reach consensus on a national trust fund. Now is the time to renew and redouble our efforts and to seize this opportunity to enact a fair and balanced bill.

I look forward to continuing to work with Chairman Specter, Judge Becker, the stakeholders, and Senators on both sides of the aisle to do the hard work necessary for us to craft the bipartisan solutions necessary to enact an effective trust fund to fairly compensate asbestos victims.